

UNITED STATES DISTRICT COURT

District of

Nevada

UNITED STATES OF AMERICA

V.

AMENDED JUDGMENT IN A CRIMINAL CASE

MICHAEL CLYDE DUTY

Date of Original Judgment: 1/16/2013

(Or Date of Last Amended Judgment)

Reason for Amendment:

- ☐ Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
- ☐ Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
- ☐ Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))
- ☒ Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

Case Number: 2:11-CR-327-PMP-CWH

USM Number: 46240-048

James Hartsell

Defendant's Attorney

- ☐ Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
- ☐ Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
- ☐ Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
- ☐ Direct Motion to District Court Pursuant ☐ 28 U.S.C. § 2255 or ☐ 18 U.S.C. § 3559(c)(7)
- ☐ Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

☒ pleaded guilty to count(s) TWO OF THE INDICTMENT

☐ pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC 371	Conspiracy to Unlawfully Deal in Firearms in Violation of 18 USC 922(a)(1)	9/6/2011	2

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

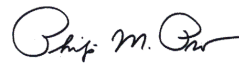
☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

1/24/2013

Date of Imposition of Judgment



Signature of Judge

PHILIP M. PRO, UNITED STATES DISTRICT JUDGE

Name and Title of Judge

January 24, 2013.

Date

DEFENDANT: MICHAEL CLYDE DUTY  
CASE NUMBER: 2:11-CR-327-PMP-CWH

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of : **FIFTEEN (15) MONTHS**

☒ The court makes the following recommendations to the Bureau of Prisons:  
The defendant be incarcerated in a facility close to Las Vegas, Nevada.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_ .

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ by 12 Noon on **March 15, 2013** .

☒ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_ with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MICHAEL CLYDE DUTY  
CASE NUMBER: 2:11-CR-327-PMP-CWH

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of : **THREE (3) YEARS**

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The Defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court, not to exceed 104 tests annually. Revocation is mandatory for refusal to comply.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### **STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record, personal history, or characteristics and shall permit the probation officer to make such notifications and confirm the defendant's compliance with such notification requirement.

DEFENDANT: MICHAEL CLYDE DUTY  
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### SPECIAL CONDITIONS OF SUPERVISION

1. You shall not possess, have under your control, or have access to any firearm, explosive device, or other dangerous weapons, as defined by federal, state, or local law.
2. You shall submit your person, property, residence, place of business and vehicle under your control to a search, conducted by the United States probation officer or any authorized person under the immediate and personal supervision of the probation officer, at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision; failure to submit to a search may be grounds for revocation; the defendant shall inform any other residents that the premises may be subject to a search pursuant to this condition.
3. You shall participate in and successfully complete a substance abuse treatment and/or cognitive based life skills program, which will include drug/alcohol testing and/or outpatient counseling, as approved and directed by the probation office. You shall refrain from the use and possession of beer, wine, liquor, and other forms of intoxicants while participating in substance abuse treatment. Further, you shall be required to contribute to the costs of services for such treatment, as approved and directed by the probation office based upon your ability to pay.
4. You shall participate in and successfully complete an educational program to earn a General Equivalency Diploma (GED).
5. You shall report, in person, to the probation office in the district to which you are released within 72 hours of discharge from custody.

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### CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$ 0	\$ 0

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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<b>TOTALS</b>	\$ _____	\$ _____
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

**SEE ATTACHED AMENDED PRELIMINARY ORDER OF FORFEITURE**

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

**FILED**

**JAN 10 2013**

CLERK, U.S. DISTRICT COURT  
DISTRICT OF NEVADA

BY \_\_\_\_\_ DEPUTY

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL CLYDE DUTY,

Defendant.

2:11-CR-327-PMP-(CWH)

**AMENDED PRELIMINARY ORDER OF FORFEITURE**

This Court finds that on August 22, 2012, defendant MICHAEL CLYDE DUTY pled guilty to Count Two of a Nine-Count Criminal Indictment charging him in Count Two with Conspiracy to Unlawfully Deal in Firearms in violation of Title 18, United States Code, Sections 371 and 922(a)(1). Criminal Indictment, ECF No. 1; Plea Memorandum, ECF No. 76; Minutes of Change of Plea Proceedings, ECF No. 75.

This Court finds defendant MICHAEL CLYDE DUTY agreed to the forfeiture of the property set forth in the Plea Memorandum. Plea Memorandum, ECF No. 76.

This Court finds, pursuant to Fed. R. Crim. P. 32.2(b)(1) and (2), the United States of America has shown the requisite nexus between property set forth in the Plea Memorandum and the offense to which defendant MICHAEL CLYDE DUTY pled guilty. Criminal Indictment, ECF No. 1; Plea Memorandum, ECF No. 76.

...

...

1 The following assets are subject to forfeiture pursuant to Title 18, United States Code, Section  
2 924(d)(1) and Title 28, United States Code, Section 2461(c):

- 3 (a) Maverick model 88, 12 gauge short-barreled shotgun, serial number MV04934G;
- 4 (b) Mossberg model 500A, 12 gauge shotgun, serial number L244961;
- 5 (c) Intratec Model Tec-9, 9mm, serial number 23988;
- 6 (d) Russian SKS 7.62X39 rifle with bayonet, serial number 9937905;
- 7 (e) Beretta model 92FS Compact, 9mm pistol, serial number E31982Z;
- 8 (f) a homemade Mac-11 type, 9mm pistol;
- 9 (g) Keltic, CNC Industries, Inc. P11 pistol, 9mm, serial number ASK60; and
- 10 (h) any and all ammunition ("property").

11 This Court find the United States of America is now entitled to, and should, reduce the  
12 aforementioned property to the possession of the United States of America.

13 NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the  
14 United States of America should seize the aforementioned property.

15 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED all right, title, and interest of  
16 MICHAEL CLYDE DUTY in the aforementioned property is forfeited and is vested in the United  
17 States of America and shall be safely held by the United States of America until further order of the  
18 Court.

19 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED the United States of America  
20 shall publish for at least thirty (30) consecutive days on the official internet government forfeiture  
21 website, [www.forfeiture.gov](http://www.forfeiture.gov), notice of this Order, which shall describe the forfeited property, state  
22 the time under the applicable statute when a petition contesting the forfeiture must be filed, and state  
23 the name and contact information for the government attorney to be served with the petition, pursuant  
24 to Fed. R. Crim. P. 32.2(b)(6) and Title 21, United States Code, Section 853(n)(2).

25 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED a petition, if any, must be filed  
26 with the Clerk of the Court, 333 Las Vegas Boulevard South, Las Vegas, Nevada 89101.



1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED a copy of the petition, if any,  
2 shall be served upon the Asset Forfeiture Attorney of the United States Attorney's Office at the  
3 following address at the time of filing:

4 Michael A. Humphreys  
5 Assistant United States Attorney  
6 Lloyd D. George United States Courthouse  
333 Las Vegas Boulevard South, Suite 5000  
Las Vegas, Nevada 89101,

7 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED the notice described herein  
8 need not be published in the event a Declaration of Forfeiture is issued by the appropriate agency  
9 following publication of notice of seizure and intent to administratively forfeit the above-described  
10 property.

11 DATED this 16<sup>th</sup> day of January, 2013.

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15 UNITED STATES DISTRICT JUDGE  
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